

REMARKS

Claims 1-4 are pending and under examination in this application. Claims 5-7 have been added by the present amendment.

Claim Rejections - 35 U.S.C. §112

Applicants believe that the Examiner has misunderstood the gist of the present invention. The present invention does not relate to a Panax extract as stated by the Examiner, but to a Panax spp. per se (usually called a "red ginseng").

A preparation method of red ginseng comprises the step of steaming. Under this situation, the present invention provides a novel method for preparing a red ginseng characterized by performing the steaming step under an oxygen-enriched atmosphere, thereby obtaining a red ginseng of good shape and enhanced antioxidant activity. The final step in Example 1, i.e. extracting the steamed ginseng with distilled water, was introduced simply for analyses in Experimental Examples 1 and 2, and it has no relation to the characteristic of the present invention.

In this light, Applicants respectfully submit that proposed amendments to the claims which appropriately describe the essential characteristics of the present invention without introducing new matter.

Claim Rejections - 35 U.S.C. §103

The Examiner is of the opinion that the present invention is obvious over Kim et al. (USP 5,776,460) in view of Ouyang et al. (Chinese Patent No. 1200892). In response thereto, Applicants respectfully rebut the obviousness rejection as follows:

(1) Comparison with Kim et al.

Kim et al. discloses a processed ginseng extract with enhanced pharmacological effects, wherein said ginseng or ginseng extract is processed by heat-treating ginseng or an extract thereof at a much higher temperature than the heat-treating temperature of red ginseng, i.e. 120 to 180 °C.

By contrast, the present invention is to solve such drawbacks as deterioration of shapes or qualities of red ginseng due to a long-time or high-temperature steaming step (like Kim et al.), by steaming ginseng under an oxygen-enriched atmosphere thereby to accelerate its browning reaction. The present method makes it possible to produce red ginseng with good shape and enhanced pharmacological activity, without requiring a long-time or high-temperature steaming step. Therefore, the present method solves drawbacks of prior arts including Kim et al. through entirely different technical means.

(2) *Comparison with Ouyang, et al.*

Ouyang, et al. discloses a preparation method of oxygenated tea drink containing Chinese herbal medicinal components. The method comprises preparing extracts from Chinese herbal medicinal components and high-pressure oxygenating the extracts to obtain the tea. That is, the tea is prepared by first preparing herbal extracts and then treating the extracts with high-pressure oxygen.

Since the present invention is not to provide a Panax extract, it does not comprises extraction of Panax spp. Thus, the present invention is fundamentally distinguishable from the method of Ouyang, et al. comprising extraction of herbal medicines. Further, the present invention employs high-pressure oxygen to accelerate the browning reaction in the steaming step, while the method of Ouyang, et al. directly dissolves oxygen into herbal extracts to obtain oxygen-enriched tea drink useful for increasing blood oxygen concentration of the human body. Therefore, the methods of the two inventions comprise totally different steps and provide totally different products, i.e. a steamed and dried Panax spp. and an oxygen-enriched Panax extract-containing tea drink, and therefore, the two inventions are not comparable.

(3) Inventive step of the present invention

As explained above, the present invention is entirely different from the cited inventions, and a person of ordinary skill could not have conceived the present invention from the cited inventions. Therefore, the present invention has an inventive step over the cited inventions, and should be granted patent.

The claims have been rejected by the Examiner under 35 USC §103(a) as being obvious over Kim et al. (USP 5,776,460) in view of Ouyang et al. (Chinese Patent No. 1200892). The Kim et al. patent discloses a processed ginseng product with improved pharmacological effects. This product was prepared with a heat treatment at a high temperature from 120 to 180°C from 0.5 to 20 hours. Kim et al. discloses that generally ginseng is used in the form of a fresh ginseng which is not dried or a white ginseng which is prepared by drying the fresh ginseng at normal temperature or of a red ginseng which is prepared by steaming and drying the fresh ginseng at a temperature of 98 to 100°C. Kim et al. attempts to show that the ginseng components can be extracted as saponins, which have pharmacological characteristics. Improvements in the pharmacological effects of various ginseng components have been found by Kim et al. to be enhanced by heat treatment at temperatures above 100°C. In addition to analyses of saponin components of processed ginseng as described in Kim et al., a drink

made up with those components is also disclosed and the advantages of heat treatment above 100°C for the ginsengs to make such a drink is also disclosed and claimed in Kim et al. Kim et al. does not disclose or suggest oxygenating the extract of ginseng components as does the present application.

The secondary reference of Ouyang et al. Chinese Patent No. 1200892 A discloses oxygenation of a tea drink which contains Chinese herbal medicinal components including ginseng leaf, ginseng tassels, whole Chinese angelica root and ophiopogon tuber as raw materials, which are mixed together with mineral water in an extraction tank and then the Mother Liquor is removed and honey is dissolved with the Mother Liquor in water and caramel.

The Ouyang et al. reference mentioned above is not relied upon in its whole condition but rather in an abstract form provided by The Derwent Information Company, Ltd. Derwent's copyright is dated 2003. The publication number of this patent is 1200892 A and the publication date is December 9, 1998. It is not clear from the reference relied upon by the Examiner as to whether or not the date of publication refers to a Chinese language publication or not. The English language abstract, since it is furnished by Derwent and has a copyright of 2003, appears to be too late to be applied against the present application. In any case, it seems that the combination of the Chinese reference, which relates to oxygenation

of tea, is not clearly combinable with the Kim et al. US patent. There must be a motivation within the two references sought to be combined by the Examiner to bring about their combination. Because the Ouyang et al. reference has to do with oxygenation of a drink mixture which contains not only ginseng leaves and tassels but other items such as angelica root and ophiopogon tuber as raw materials mixed with mineral water, there seems to be a question as to whether or not the oxygenation process would benefit the ginseng components and any useful improvement in the health improving qualities of the tea drink is not clearly shown in what has been disclosed.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

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required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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